

1 TIMOTHY R. FISCHER, WSBA No. 40075
2 Murphy, Bantz & Bury, P.S.
3 818 W. Riverside Avenue
4 631 Lincoln Plaza
5 Spokane, WA 99201
(509) 838-4458

The Honorable Frank Kurtz

Attorneys for Debtor in possession

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

No. 10-02341-FLK11

DEAN, JOE.

Debtor in possession.

**FINDINGS OF FACT ON
CONFIRMATION OF THIRD
AMENDED PLAN
[PROPOSED]**

THIS MATTER having come before the Court on May 6, 2011, on confirmation of Debtor's Third Amended Plan filed herein, the proposed Third Amended Plan of Reorganization having been filed herein and having been transmitted to the Master Mailing List and all previously objecting parties, after proper notice, and the parties having resolved remaining objections, the objecting parties having been represented by counsel, and the Court having been fully advised, hereby finds:

1. Issues between the Debtor and Objecting Parties, including Banner Bank, Wilbur Ellis, J.R. Simplot, Deere & Company, U.S. Bank, and Wells Fargo have been resolved by the Third Amended Plan, and the First and Second Modification thereto, and all Objecting Parties have either withdrawn their objection, amended their vote to approve the changes, or both.

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2 2. The applicable provisions of Title 11 U.S.C. have been complied
3 with by the Plan and the proponent; the Plan has been proposed in good faith
4 and not by any means forbidden by law.
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7 3. The Plan provides that each holder of a claim or interest has
8 accepted the Plan or will receive or retain under the Plan property of a value, as
9 of the effective date of the Plan, that is not less than the amount that such holder
10 would receive or retain if the Debtor were liquidated under Chapter 7 of the
11 Code on such date;
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14 4. Any payment made or to be made by the proponent, by the debtor,
15 or by a person issuing securities or acquiring property under the plan, for
16 services or for costs and expenses in or in connection with the case, or in
17 connection with the plan and incident to the case, has been approved by, or is
18 subject to the approval of, the court as reasonable.
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21 5. The proponent of the plan has disclosed the identity and affiliations
22 of any individual proposed to serve, after confirmation of the plan, as a director,
23 officer, or voting trustee of the debtor, an affiliate of the debtor participating in a
24 joint plan with the debtor, or a successor to the debtor under the plan; and the
25 appointment to, or continuance in, such office of such individual, is consistent
26 with the interests of creditors and equity security holders and with public policy.
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29 6. With respect to each impaired class of claims or interests, each
30 holder of a claim or interest of such class has accepted the plan; or will receive
or retain under the plan on account of such claim or interest property of a value,

1 as of the effective date of the plan, that is not less than the amount that such
2 holder would so receive or retain if the debtor was liquidated under Chapter 7 of
3 Title 11 U.S.C. on such date.

5
6 7. Except to the extent that the holder of a particular claim has agreed
7 to a different treatment of such claim, the plan provides that, with respect to a
8 claim of a kind specified in 11 U.S.C. § 507(a)(2) or § 507(a)(3), on the
9 effective date of the plan, the holder of such claim will receive on account of
10 such claim cash equal to the allowed amount of such claim; with respect to a
11 class of claims of a kind specified in 11 U.S.C. §§ 507(a)(1), (a)(4) (wages),
12 (a)(5) (employee benefit plan contribution), (a)(6) (agriculture and fisheries), or
13 (a)(7) (rental deposits), each holder of a claim of such class will receive, if such
14 class has accepted the plan, deferred cash payments of a value, as of the
15 effective date of the plan, equal to the allowed amount of such claim;

17
18 8. With respect to a claim of a kind specified in 11 U.S.C. § 507(a)(8)
19 (taxes), the holder of such claim will receive on account of such claim regular
20 installment payments in cash-of a total value, as of the effective date of the plan,
21 equal to the allowed amount of such claim; over a period ending not later than 5
22 years after the date of the order for relief under 11 U.S.C. §§ 301, 302, or 303;
23 and in a manner not less favorable than the most favored non-priority unsecured
24 claim provided for by the plan (other than cash payments made to a class of
25 creditors under section 11 U.S.C. § 1122(b)).

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28 9. With respect to a secured claim which would otherwise meet the
29 description of an unsecured claim of a governmental unit under 11 U.S.C.
30 section 507 (a)(8), but for the secured status of that claim, the holder of that

1 claim will receive on account of that claim, cash payments, in the same manner
2 and over the same period, as described in Paragraph 8, above.
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4 10. At least one class of claims that is impaired under the plan has
5 accepted the plan, determined without including any acceptance of the plan by
6 any insider.
7

8 9 11. Confirmation of the plan is not likely to be followed by the
10 liquidation, or the need for further financial reorganization, of the debtor or any
11 successor to the debtor under the plan, unless such liquidation or reorganization
12 is proposed in the plan.
13

14 15 12. All U.S. Trustee fees payable under § 1930 of title 28, as
16 determined by the Court at the hearing on confirmation of the plan, have been
17 paid or the plan provides for the payment of all such fees on the effective date of
18 the plan.
19

20 13. With respect to a class of secured claims, the plan provides, that the
21 holders of such claims retain the liens securing such claims, whether the
22 property subject to such liens is retained by the debtor or transferred to another
23 entity, to the extent of the allowed amount of such claims; and that each holder
24 of a claim of such class receives on account of such claim deferred cash
25 payments totaling at least the allowed amount of such claim, of a value, as of the
26 effective date of the plan, of at least the value of such holder's interest in the
27 estate's interest in such property;
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